

FORBES MECHANICAL CONTRACTORS ACT

Act 192 of 1984

AN ACT to regulate the use, installation, alteration, and servicing of specified heating, cooling, ventilating, and refrigerating equipment and systems; to create a board of mechanical rules; to provide for the licensing of installing contractors and of servicing contractors of heating, cooling, ventilating, and refrigerating equipment and systems; to prescribe fees; to provide for the promulgation of rules; and to prescribe penalties.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: For transfer of powers and duties relating to promulgation of rules by the board of mechanical rules from the department of labor to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

338.971 Short title.

Sec. 1. This act shall be known and may be cited as the "Forbes mechanical contractors act".

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

For transfer of powers and duties relating to promulgation of rules by the board of mechanical rules from the department of labor to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

338.972 Definitions.

Sec. 2. (1) As used in this act:

- (a) "Board" means the board of mechanical rules.
- (b) "Department" means the department of labor.
- (c) "Air conditioning" means the process of treating air to meet the requirements of a conditioned space by controlling, either simultaneously or individually, the air's temperature, humidity, cleanness, and distribution.
- (d) "Cooling" means air conditioning as defined in subdivision (c).
- (e) "Ductwork" means the air distribution arrangement for supply, return, and exhaust in air conditioning systems and in nonair conditioning systems, the materials and methods of which are specified in the Michigan mechanical code, or an equivalent nationally recognized model mechanical code. Ductwork includes flues, vents, and chimneys.
- (f) "Enforcing agency" means an enforcing agency as defined in section 2 of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1502 of the Michigan Compiled Laws.
- (g) "Equivalent nationally recognized model construction code" means a nationally recognized model construction code adopted pursuant to section 8 of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1508 of the Michigan Compiled Laws.
- (h) "Equivalent nationally recognized model mechanical code" means a nationally recognized model mechanical code adopted pursuant to section 8 of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1508 of the Michigan Compiled Laws.
- (i) "Fire suppression system" means an integrated combination of a fire alarm system and fire suppression equipment which as a result of predetermined temperature, rate of temperature rise, products of combustion, flame, or human intervention will discharge a fire extinguishing substance over a fire area.
- (j) "Governmental subdivision" means a governmental subdivision as defined in section 2 of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1502 of the Michigan Compiled Laws.
- (k) "Heating", used alone, means the use of any fuel or electricity to generate heat in an air conditioning system. When used with a qualifying term such as "hydronic", the term heating assumes the limited meaning expressed by such qualification.
- (l) "Heating, ventilating, and air conditioning" or "HVAC" means the application of equipment and systems to provide air conditioning for occupants of buildings and structures. HVAC does not include the installation of portable self-contained refrigeration equipment and window-type air conditioners of not more than 1-1/2 horsepower.
- (m) "Hydronic heating and cooling" means the application of equipment and systems which provide air conditioning by the controlled forced circulation of fluids or vapors in pipes.
- (n) "Michigan mechanical code" means part 9 of the general rules of the state construction code commission, being R 408.30907 to R 408.30998 of the Michigan administrative code.

(o) "Process piping" means any piping which is not part of a system designed to provide air conditioning or of a refrigeration system. Process piping includes pipes which transfer chemicals and other fluids, gases, or vapors for systems other than air conditioning systems as covered by the Michigan mechanical code or an equivalent nationally recognized model mechanical code.

(p) "Refrigeration" means the use of equipment and systems, including refrigeration piping, employing the refrigeration cycle to generate low temperatures for other than air conditioning equipment and systems. Refrigeration includes such equipment and systems as supermarket refrigeration, industrial refrigeration, the preservation of biological materials, and food storage facilities. Refrigeration does not include the installation of portable self-contained units such as refrigerators, dehumidifiers, and other similar equipment of not more than 1.5 horsepower or other equipment exempted from the Michigan mechanical code.

(q) "Specialty license" means a license granted pursuant to this act which allows the licensee to perform work within limits established by the board in 1 or more of the work classifications set forth in section 6(3).

(r) "Servicing" means the maintenance, repair, and servicing of previously installed equipment and systems.

(s) "State construction code" means the rules promulgated by the state construction code commission under section 4 of the state construction code act of 1972, Act No. 230 of the Public Acts of 1972, being section 125.1504 of the Michigan Compiled Laws.

(t) "Limited heating service" means the servicing of gas-designed sectional boilers having inputs of not more than 1 million British thermal units, utilizing a combustion safeguard designed to shut off the main gas supply 10 or more seconds after pilot flame failure, and all other gas-fired or solid-fuel equipment and systems limited to input ratings of less than 400,000 British thermal units per unit; or oil-fired equipment and systems designed for the use of number 1 or number 2 fuel oil, having a maximum firing rate of less than 5 gallons per hour per unit; or electrical furnaces and electric boilers using the same kilowatts that are equivalent to the fossil fuel British thermal units generated.

(u) "Limited refrigeration and air conditioning service" means the servicing of refrigeration equipment and systems and air conditioning equipment and systems employing the refrigeration cycle of unlimited capacity utilizing group 1 refrigerants as listed in the Michigan mechanical code or an equivalent nationally recognized model mechanical code.

(v) "Unlimited heating service" means the servicing of heating equipment and systems without restrictions concerning thermal capacity or grade of fuel oil or type of fuel.

(w) "Unlimited refrigeration and air conditioning service" means the servicing of refrigeration equipment and systems and air conditioning equipment and systems employing the refrigeration cycle unlimited as to thermal capacity or type of refrigerant.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.973 Board of mechanical rules; creation; appointment, qualifications, and terms of members; vacancy; removal; disclosure of pecuniary interest; reimbursement; election of vice-chairperson and secretary; designation of chairperson.

Sec. 3. (1) There is created within the department a board of mechanical rules that consists of the state fire marshal or the state fire marshal's designee, who shall be a permanent member, and 14 residents of the state to be appointed by the governor with the advice and consent of the senate. Appointed members shall be not less than 18 years of age and qualified in their respective fields. Appointed members of the board shall include 1 person from the general public; a member of organized labor representing the mechanical trades; a professional mechanical engineer registered in this state; a representative of an energy-producing public utility of the state; a representative from each of the work classifications set forth in section 6(3); and 2 chief mechanical inspectors of governmental subdivisions, 1 of whom enforces the building officials and code administrators building code, and 1 of whom enforces the international conference of building officials building code. A member of the board appointed by the governor before January 1, 2007 shall be appointed for a term of 2 years, except that a vacancy shall be filled for the unexpired portion of the term. A member of the board appointed by the governor after December 31, 2006 shall be appointed for a term of 4 years, except that a vacancy shall be filled for the unexpired portion of the term. A member of the board may be removed from office by the governor in accordance with section 10 of article V of the state constitution of 1963. A member of the board who has a pecuniary interest in a matter shall disclose that interest before the board takes action in the matter, which disclosure shall be made a matter of record in the board's official proceedings. Each member of the board, except the state fire marshal or the state fire marshal's designee, shall receive reimbursement for actual expenses incurred by the member in the performance of his or her duties as a

member of the board, subject to available appropriations. Travel or other expenses incurred by a member of a board in the performance of an official function shall be payable by the department pursuant to the standardized travel regulations of the department of management and budget, subject to available appropriations. A member of the board shall not serve more than 2 consecutive terms.

(2) At the first meeting of each year, the board shall elect from its membership a vice-chairperson and secretary. The vice-chairperson and secretary shall be elected from those members appointed to the board by the governor, except that the board members who are chief mechanical inspectors are not eligible for election as vice-chairperson of the board. After December 31, 2006, the governor shall designate 1 member of the board to serve as chairperson at the pleasure of the governor.

History: 1984, Act 192, Eff. Oct. 1, 1984;—Am. 2006, Act 197, Imd. Eff. June 19, 2006.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

For transfer of member of board of mechanical rules designated for state fire marshal to the director of department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

338.974 Quarterly meetings; notice of special meetings; quorum; advice regarding implementation of act; conducting business at public meeting; notice; availability of writings to public.

Sec. 4. (1) The board shall hold regular quarterly meetings. Special meetings may be held at the call of the chairperson or 4 members of the board. Written notice of a special meeting shall be mailed to each member not less than 12 days before the date of the meeting.

(2) Eight members of the board shall constitute a quorum for the transaction of business. An approval, decision, or ruling of the board shall not become effective unless approved by 2/3 of the board members attending a meeting.

(3) The board may request a person to appear before the board to advise the board regarding the implementation of this act.

(4) The business which the board performs shall be conducted at a public meeting of the board held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(5) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.975 Recommendations to state construction code commission; rules; review and approval of examination or other test.

Sec. 5. (1) The board may recommend to the state construction code commission the promulgation of rules necessary for the safe design, construction, installation, alteration, servicing, and inspection of heating, cooling, ventilating, and refrigerating systems used in compliance with the Michigan mechanical code, and may recommend modifications, additions, or deletions to this act to update and maintain this act as an effective and enforceable instrument. The board may also recommend to the state construction code commission, after testing and evaluating a material, product, method of manufacture, or method of construction or installation for acceptability under the code that the commission issue certificates of acceptability.

(2) The board, in consultation with the department, may promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws, to provide an examination procedure for applicants for licensure under this act. Before an examination or other test required under this act is administered, the department and the board, acting jointly, shall review and approve the form and content of the examination or other test.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.976 Examinations; purpose; application; form; fee; issuance of licenses; qualifications of applicant; classification and limitation of contractor's license.

Sec. 6. (1) Upon the filing of an application on a form prescribed by the department and payment of the

examination fee prescribed in section 10, the department shall conduct examinations to establish the qualifications and competency of applicants seeking licensing for the category for which the application is submitted and shall issue licenses to those who pass the examinations and pay the initial issuance fee, except as otherwise provided for in this act. An applicant who seeks licensure in more than 1 work classification listed in subsection (3) on a single application shall only be required to pay 1 examination fee and 1 initial issuance fee as provided in section 10. A person applying for a license under this act shall also pay the amount required to be paid under the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305, which amount shall be paid to the department for deposit in the homeowner construction lien recovery fund. A person is not required to pay more than \$50.00 in an assessment period under that act, regardless of the number of licenses applied for or held.

(2) An applicant is not considered eligible for examination unless the applicant is of good moral character, as defined in 1974 PA 381, MCL 338.41 to 338.47, and has a minimum of 3 years of experience or an equivalent of that experience acceptable to the board, upon proper showing to the department, in 1 or more of the work classifications listed in subsection (3).

(3) A contractor's license obtained shall be classified and limited as 1 or more of the following:

- (a) Hydronic heating and cooling and process piping.
- (b) HVAC equipment.
- (c) Ductwork.
- (d) Refrigeration.
- (e) Limited service, heating or refrigeration.
- (f) Unlimited service, heating or refrigeration.
- (g) Fire suppression.
- (h) Specialty.

History: 1984, Act 192, Eff. Oct. 1, 1984;—Am. 2004, Act 271, Imd. Eff. July 23, 2004.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.977 Installations, alterations, or servicing; designating contractor of record; notice; performance without compensation or on behalf of charitable organization; facility employing qualified maintenance crew; "charitable organization" defined.

Sec. 7. (1) Except as provided in subsection (3) and section 14, an individual, partnership, association, corporation, governmental subdivision, college, or university shall not perform installations, alterations, or servicing of work classifications under section 6(3), which are regulated by the state construction code act of 1972, 1972 PA 230, MCL 125.1501 to 125.1531, unless the individual, or an employee of the individual, partnership, association, corporation, governmental subdivision, college, or university has received a contractor's license from the department, which has not been revoked or suspended, and the license is either classified and limited as provided in section 6 or is annotated as provided in section 8, and the holder of the license has secured the appropriate permit from the enforcing agency charged with the responsibility of issuing permits.

(2) An individual, partnership, association, corporation, governmental subdivision, college, or university which performs installations, alterations, or servicing of work classifications under section 6(3) shall designate the holder of a contractor's license as described in subsection (1) as the contractor of record. The department shall be notified in writing of the designation.

(3) If the installation, alteration, or service of a work classification under section 6(3) is performed without compensation by a person licensed under this act for or on behalf of a charitable organization, the permit required under subsection (1) may be obtained by the owner of the property on which the work is performed. This subsection applies only to the reconstruction, renovation, or remodeling of 1- to 4-family dwellings.

(4) This act does not require a contractor of record in a facility that regularly employs a qualified maintenance crew to perform within the facility mechanical contracting work regulated by this act.

(5) As used in this section, "charitable organization" means a not for profit tax-exempt religious, educational, or humane organization.

History: 1984, Act 192, Eff. Oct. 1, 1984;—Am. 1985, Act 168, Imd. Eff. Dec. 2, 1985;—Am. 1998, Act 300, Imd. Eff. July 28, 1998.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.978 Granting license without examination; application; fee; renewal.

Sec. 8. (1) A person who was not required by statute before the effective date of this act to be licensed, and

who, on the effective date of this act, was engaged in, or worked at, a business as a mechanical contractor in 1 or more of the work classifications set forth in section 6(3), and who is required to be licensed under this act, shall, upon furnishing the department with satisfactory evidence of having been engaged in a business as a mechanical contractor in 1 or more of the work classifications set forth in section 6(3) for a minimum of 3 out of the 5 years immediately preceding the effective date of this act, and of having the necessary qualifications, shall be granted the license for which the applicant seeks licensure without examination, if the applicant makes application within 1 year after the effective date of this act and pays the initial license fee prescribed in section 10. If the applicant is approved for licensing, the applicant's license shall be annotated showing the work classification or classifications listed in section 6(3) in which the applicant has demonstrated the requisite experience to engage.

(2) A person who was not required by statute to be licensed before the effective date of this act and, on the effective date of this act, is licensed by a municipal licensing board as a mechanical contractor in 1 or more of the work classifications set forth in section 6(3), is required to be licensed under this act, and can furnish the department with satisfactory evidence of the municipal license shall be granted the license for which the person seeks licensure without examination, if the person makes application within 1 year after the effective date of this act and pays the initial license fee prescribed in section 10.

(3) A person who was not required by statute to be licensed before the effective date of this act and, on the effective date of this act, is employed as a mechanical code inspector for a governmental subdivision and has engaged in, or worked at, a business as a mechanical contractor in 1 or more of the work classifications set forth in section 6(3) for 3 out of the 5 years immediately preceding the date of the person's employment as a mechanical code inspector and can furnish the department with satisfactory evidence of the employment and mechanical contracting experience, shall be granted the license for which the person seeks licensure without examination if the person makes application within 1 year after the effective date of this act and pays the initial license fee prescribed in section 10.

(4) A person who, on the effective date of this act, is licensed as a residential maintenance and alteration contractor in the trade of heating and air conditioning installation pursuant to section 2404 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.2404 of the Michigan Compiled Laws, and can furnish the department with satisfactory evidence of the license, may be granted a license under this act in the appropriate work classification set forth in section 6(3) without examination if the person makes application within 1 year after the effective date of this act and pays the initial license fee prescribed in section 10.

(5) A person who, on the effective date of this act, is licensed as a residential builder under article 24 of the occupational code, Act No. 299 of the Public Acts of 1980, being sections 339.2401 to 339.2412 of the Michigan Compiled Laws, and can furnish the department with satisfactory evidence of the license and of having been engaged as a mechanical contractor in 1 or more of the work classifications set forth in section 6(3) within the 5 years immediately preceding the effective date of this act, may be granted a license under this act in the appropriate work classification set forth in section 6(3) without examination if the person makes application within 1 year after the effective date of this act and pays the initial license fee prescribed in section 10.

(6) The department may license, without examination and upon the payment of the initial license fee prescribed in section 10, an applicant who is legally authorized mechanical contractor in another state or country if the licensing requirements of the state or country are considered by the board and the department to be substantially equivalent to the licensing requirements of this state and the state or country observes reciprocity in regard to mechanical contractors licensed in this state.

(7) The department may license, without examination or payment of the fees prescribed in section 10, an applicant who is certified to install, modify, test, service, inspect, or maintain required fire suppression systems under the fire prevention code, Act No. 207 of the Public Acts of 1941, being sections 29.1 to 29.33 of the Michigan Compiled Laws and who seeks licensure under this act only in the work classification set forth in section 6(3)(g).

(8) The holder of a license issued pursuant to this section shall have the right to renew the license pursuant to section 10.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.979 Local licensing requirements prohibited.

Sec. 9. After the effective date of this act, a governmental subdivision shall not establish or maintain local licensing requirements for the work classifications set forth in section 6(3). A governmental subdivision shall

not prohibit a contractor licensed under this act from engaging in the work classification or classifications for which the contractor has a license, unless the contractor is in violation of the mechanical code.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.980 Contractor's license; examination fee; initial and per-year fee for issuance; expiration and renewal; reinstatement; receipt of completed application; issuance of license within certain time period; disposition of fees, money, and other income; report; "completed application" defined.

Sec. 10. (1) Subject to subsection (8), the examination fee for a contractor's license is \$25.00 if paid after September 30, 2012 and \$100.00 if paid on or before September 30, 2012. Except as otherwise provided in subsections (2) and (4), the initial and per-year fee for the issuance of a contractor's license is \$75.00 if paid after September 30, 2012 and \$100.00 if paid on or before September 30, 2012.

(2) An initial or renewal contractor's license issued under this act expires on August 31 every third year and is renewable not later than October 31 upon application and payment of the license fee. For a person applying for an initial or reinstatement contractor's license at a time other than between August 31 and October 31 of the year in which the department issues renewal licenses, the department shall compute and charge the license fee on a yearly pro rata basis beginning in the year of the application until the last year of the 3-year license cycle. All licenses not renewed are void and may be reinstated only upon application for reinstatement and the payment of the license fee. A person who renews his or her license within 3 years after the license is voided pursuant to this section is not subject to reexamination for the license.

(3) Beginning July 23, 2004, the department shall issue an initial or renewal license not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of the state of Michigan. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make the information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(4) If the department fails to issue or deny a license within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. The failure to issue a license within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the license fee was refunded or discounted under this subsection.

(5) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with occupational issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (3).

(b) The number of applications denied.

(c) The number of applicants not issued a license within the 90-day time period and the amount of money returned to licensees under subsection (4).

(6) All fees and money received by the department for the licensing of persons under this act, and any other income received under this act, shall be paid into the state construction code fund created by section 22 of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1522.

(7) The department shall annually submit to the members of the legislature a comprehensive report detailing the expenditure of additional money resulting from the 1989 amendatory act that increased the fees contained in this section.

(8) As used in this section, "completed application" means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of the state of Michigan.

History: 1984, Act 192, Eff. Oct. 1, 1984;—Am. 1989, Act 105, Eff. Oct. 1, 1989;—Am. 1997, Act 119, Imd. Eff. Oct. 24, 1997;—Am. 2004, Act 271, Imd. Eff. July 23, 2004;—Am. 2008, Act 372, Imd. Eff. Dec. 23, 2008.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.981 Investigation; hearings; oaths; testimony; report of findings; grounds for proceeding under MCL 338.986; suspension or revocation of license; violation of MCL 338.3101 to 338.3319 or MCL 408.1057 to 408.1060f; notice; review; hearing required for imposition of sanctions; effect of suspended, revoked, or expired license; license required for securing permits.

Sec. 11. (1) The department may investigate the activities of a licensee related to the licensee's activities as a contractor. The department may hold hearings, administer oaths, and order relevant testimony to be taken and shall report its findings to the board. The board shall proceed under section 16 if the board finds that any of the following grounds exist:

- (a) The practice of fraud or deceit in obtaining a license under this act.
- (b) The practice of fraud or deceit in the performance of work for which a license is required under this act.
- (c) An act of gross negligence.
- (d) The practice of false advertising.
- (e) An act which demonstrates incompetence.
- (f) A violation of this act or rule promulgated under this act.

(2) The board, upon recommendation of the department, shall suspend or revoke the license of any person whose failure to pay a lien claimant results in a payment being made from the homeowner construction lien recovery fund pursuant to the construction lien act, Act No. 497 of the Public Acts of 1980, being sections 570.1101 to 570.1305 of the Michigan Compiled Laws. The license shall not be renewed, nor shall a new license be issued until the person whose license has been suspended or revoked under this subsection has repaid in full to the fund the amount paid out plus the costs of litigation and interest at the rate set by section 6013 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.6013 of the Michigan Compiled Laws.

(3) The department shall conduct a review upon notice by the department of public health that the licensee has violated the asbestos abatement contractors licensing act, Act No. 135 of the Public Acts of 1986, being sections 338.3101 to 338.3319 of the Michigan Compiled Laws, or sections 57 to 60f of the Michigan occupational safety and health act, Act No. 154 of the Public Acts of 1974, being sections 408.1057 to 408.1060f of the Michigan Compiled Laws and may suspend or revoke that person's license for a knowing violation of those acts.

(4) A revocation, suspension, or other sanction set forth in subsection (3) or section 16 shall be imposed only after a hearing has been conducted pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(5) The installation, alteration, or servicing of heating, cooling, ventilating, or refrigerating equipment or systems shall not be performed under a license that has been suspended, revoked, or has expired. A license, other than a license issued under this act, shall not be recognized for securing permits to install, alter, or service heating, cooling, ventilating, or refrigerating equipment or systems.

History: 1984, Act 192, Eff. Oct. 1, 1984;—Am. 1990, Act 5, Imd. Eff. Feb. 12, 1990.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

Administrative rules: R 338.901 et seq. of the Michigan Administrative Code.

338.982 Designating new contractor of record; time; notice.

Sec. 12. (1) If an employee of an individual or an employee or officer of a partnership, association, or corporation authorized to perform installations, alterations, or servicing in the work classifications set forth in section 6(3) is a contractor of record designated pursuant to section 7, and ceases to be an employee of the individual or an employee or officer of the partnership, association, or corporation, the individual, partnership, association, or corporation shall have 90 days after the date the contractor of record ceases to be an employee or officer in which to designate an employee or officer who is a holder of a contractor's license under this act as the new contractor of record. The department shall be notified in writing of the designation.

(2) If an individual is licensed to perform installations, alterations, or servicing in 1 or more of the work classifications set forth in section 6(3) and is also the contractor of record, and that individual ceases to do business as a mechanical contractor and sells his or her business interest to another individual, partnership, association, or corporation, the buyer shall have 90 days to designate an employee or officer who is the holder

of a contractor's license under this act as the contractor of record. The department shall be notified in writing of the designation.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.983 Registration of license with enforcing agency of governmental subdivision; validity; fee.

Sec. 13. A contractor licensed under this act who performs work in a governmental subdivision shall register his or her license with the enforcing agency which issues permits and provides inspection services of contractor's work. The registration shall be valid until the expiration date of the contractor's license. Registration shall be granted by all governmental subdivisions in this state to a contractor licensed under this act upon payment of a fee not to exceed \$15.00.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.984 Installation by owner of heating or refrigeration system in dwelling; application for permit; inspection.

Sec. 14. The owner of a single family dwelling which is, or upon completion becomes, the owner's place of residence may personally install a heating or refrigerating system in the dwelling if the owner, upon application for a permit, affirms that he or she is the owner and occupant of the dwelling or shall become the owner and occupant upon completion of the dwelling in which the installation is done and that the applicant will install the equipment in the dwelling for which the permit is requested. The applicant shall apply for and secure the required permits from the enforcing agency of the governmental subdivision and shall obtain the required inspection after the installation is completed and the equipment is placed in operation.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.985 Violations; penalties.

Sec. 15. (1) Except as provided in subsection (2), an individual, partnership, association, or corporation who violates this act is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or imprisonment for not more than 90 days, or both.

(2) A member of the board who intentionally violates section 4(4) shall be subject to the penalties prescribed in the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.986 Sanctions for violation.

Sec. 16. After finding the existence of 1 or more of the grounds for board action described in section 11(1) and after an opportunity for a hearing, the board, except as provided in section 11(2), shall impose 1 or more of the following sanctions for each violation:

- (a) Suspension of the license issued under this act.
- (b) Denial of the license required under this act.
- (c) Revocation of the license issued under this act.
- (d) A requirement that restitution be made.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.987 Restitution.

Sec. 17. If restitution is required to be made under section 16, the license of the person required to make the restitution may be suspended until restitution is made.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.

338.988 Effective date.

Sec. 18. This act shall take effect October 1, 1984.

History: 1984, Act 192, Eff. Oct. 1, 1984.

Compiler's note: Former MCL 338.971 to 338.991, deriving from Act 208 of 1953 and pertaining to residential builders, were repealed by Act 383 of 1965, Eff. Apr. 1, 1966, and Act 12 of 1966, Eff. Sept. 1, 1966.